



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/400,222	09/21/1999	YOKO FUJIWARA	325772012000	3189

7590 08/24/2005

Barry E. Bretschneider
Morrison & Foerster LLP
1650 Tysons Blvd., Suite 300
McLean, VA 22102

EXAMINER

BRINICH, STEPHEN M

ART UNIT PAPER NUMBER

2624

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/400,222

Applicant(s)

FUJIWARA, YOKO

Examiner

Stephen M. Brinich

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,8,13,18,19 and 24-29 is/are rejected.
- 7) ☒ Claim(s) 3-6,9-12,14-17 and 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2624

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 24-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 24-28 are drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.

Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

Claims 24-28, while defining a computer program, does not define a "computer-readable medium" and is thus non-statutory

Art Unit: 2624

for that reasons. A computer program can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" in order to make the claim statutory.

In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-2, 7-8, 13, 18-19, 24-25, & 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al in view of Pellar.

Re claims 1-2, 7-8, 13, 18-19, 24-25, & 29, Graham et al discloses (Figure 4; column 4, lines 64-66) an arrangement in which the image data of an input page is read and received, the halftone screen angle of the input page is determined based on its image data, and an output document is generated.

Graham et al does not disclose generating an output document using a new dither pattern having a different screen

Art Unit: 2624

angle from among a plurality of alternatives. The selection of a new dither pattern having a different screen angle from among a plurality of alternatives is known as evidenced by Pellar (column 3, lines 14-18). Pellar further teaches (column 2, lines 67-68) that using different halftone screens angles is desirable for the purpose of reducing Moiré pattern effects. The use of such variation of halftone screen angles in Graham et al in order to reduce Moiré pattern effects in the final output would be an expedient obvious to one of ordinary skill in the art.

Allowable Subject Matter

6. Claims 3-6, 9-12, 14-17, & 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

Re claims 3, 9, 14, 20, & 26 (and dependent claims 4, 10, 15, & 21), the art of record does not teach or suggest the recited detection of screen angles for various colors and selection of different screen angles for each of these colors.

Re claims 5, 11, 16, 22, & 27, the art of record does not teach or suggest the recited comparison of image data to a

Art Unit: 2624

plurality of detection patterns and counting of matches to determine an input image screen angle.

Re claims 6, 12, 17, 23 & 28, the art of record does not teach or suggest the recited calculation of average pixel densities around a particular pixel and determination of an input document screen angle based on a density maximum.

Response to Arguments

8. Applicant's arguments filed 5/18/05 have been fully considered but they are not persuasive.

Applicant argues (5/18/05 Response: page 2, line 6 - page 3, line 2) that there is no suggestion to combine the teachings of Graham et al and Pellar as set forth in the above rejection.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Pellar teaches (column 2, lines 67-

Art Unit: 2624

68) that the use of different halftone screens angles is desirable for the purpose of reducing Moiré pattern effects.

Applicant argues (5/18/05 Response: page 3, lines 3-5) that Pellar does not teach or suggest referencing the original image screen angle.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the present case, the element of referencing the original image screen angle is taught by Graham et al.

Conclusion

9. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 703-308-4357.


Art Unit: 2624

The examiner can normally be reached on weekdays 7:00-4:30, alternate Fridays off.

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

Hand-carried correspondence may be delivered to the Customer Service Window, located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.


Stephen M Brinich
Examiner
Art Unit 2624

smb
August 11, 2005